

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

*File
Na (10/20/88)*

	ACTION	INFO
1. D/OCA		
2. DD/Legislation		
3. DD/Senate Affairs		
4. Ch/Senate Affairs		
5. DD/House Affairs		
6. Ch/House Affairs		
7. Admin Officer		
8. FOIA Officer		
9. Constituent Inquiries Officer		
10. 		XX
11.		
12.		

STAT

SUSPENSE

Date

Action Officer:

Remarks:

GAH 10/20/88

Name/Date

WASHFAX RECEIPT

THE WHITE HOUSE

C

2 OCT 88 09 39

OCA 3510-88

AMESSAGE NO. 1457CLASSIFICATION UNCLASSIFIEDPAGES 5FROM David Addington
(NAME)456-2230
(EXTENSION)2FL/WW
(ROOM NUMBER)MESSAGE DESCRIPTION Letter from the Atty General

TO (AGENCY)

CIA

DELIVER TO:



DEPT/ROOM NO.

Leg. Affairs

EXTENSION

STAT
STAT

REMARKS



Office of the Attorney General
Washington, D.C. 20530

19 OCT 1988

Honorable Robert H. Michel
Minority Leader
U.S. House of Representatives
H 232 Capitol
Washington, D.C. 20515

Dear Mr. Leader:

This letter presents the Administration's views on the law enforcement provisions of H.R. 5210, the omnibus drug bill that passed the House on September 22, 1988, and passed the Senate with amendments on October 14. The Administration urges that the Congress send the President a final bill containing the best provisions from both the House and Senate versions that will strengthen our continuing efforts to achieve a drug-free America.

The Administration's views on the differing House and Senate versions of the major law enforcement provisions in H.R. 5210 are set forth below.

- o **Death Penalty.** Inclusion in the final bill of effective provisions for the death penalty in appropriate serious cases is essential. Generally, the Senate version is preferable, and it should be noted that the House version did not include a constitutionally required appeal mechanism.
- o **Exclusionary Rule Reform.** Restoring the focus of the criminal justice process on the search for truth requires reform of the exclusionary rule that prevents, in certain circumstances, the use in court of evidence gathered in good faith by the police. The Senate version only codifies existing law, as expressed in the Supreme Court's decision in *U.S. v. Leon*, 468 U.S. 897 (1984), which recognizes a good faith exception to the exclusionary rule for evidence obtained by a police officer, acting in good faith, in a search pursuant to a warrant that later is held to be defective. The House version permits the use of evidence obtained by police in good faith in any type of search. The Administration strongly supports inclusion of the House version in the final bill.

- 2 -

- o Habeas Corpus Reform. The Senate version of the bill includes a provision for expedited Congressional consideration of legislative proposals for Habeas Corpus reform as recommended by a judicial panel. The Administration strongly supports the inclusion of this provision in the final bill to secure the reforms which are essential to permit some finality to our criminal justice process.
- o User Accountability. The Administration supports inclusion in the final bill of provisions regarding termination of certain benefits upon conviction of drug use crimes. These provisions in both the House and the Senate versions of the bill would appropriately hold drug users accountable to society for their drug abuse. The administration strongly supports the user accountability provisions contained in the Senate version, because it provides for a graduated system of penalties that enhances the deterrent effect of penalties and provides more appropriate discretion to sentencing officials in determining the appropriateness of penalties.
- o Child Protection and Obscenity Enforcement Act. The Administration strongly supports inclusion in the final bill of the Senate-passed legislation to strengthen Federal child pornography laws and enhance our ability to curb interstate traffic in obscene materials.
- o Drug Czar. The Administration believes that a decision should not be made on whether to establish a single officer with government-wide authority over Federal assets deployed by the various agencies to combat illegal drugs, until the incoming President takes office and makes his recommendations to Congress. One particular concern with respect to the creation of a drug czar is the adverse impact it could have on the effective functioning of the U.S. Intelligence Community and the protection of intelligence sources and methods and classified information.
- o Diplomatic Immunity. The Administration strongly opposes the Diplomatic Immunity Abuse Prevention Act provisions included in the Senate version of the legislation, because they are unconstitutional and substantially damage U.S. foreign policy interests without materially advancing the battle against illegal drugs. The Secretary of State has written you separately detailing the damage that these provisions would cause to the ability of the United States to conduct an effective foreign policy.

- 3 -

- o Anti-Corruption Act. The Administration strongly supports inclusion in the final bill of the Senate-passed provisions containing the text of S. 2793, the Anti-Corruption bill. This legislation, which effectively overturns the Supreme Court's recent decision in McNally v. U.S., 107 S. Ct. 2875 (1987), would ensure effective use of Federal fraud statutes to combat corruption and white collar crime.
- o Sanctions on Foreign Banking. The Administration strongly opposes provisions in the Senate version that mandate sanctions against foreign governments and foreign banks if the foreign governments do not agree to impose U.S. currency transaction reporting requirements. This unprecedented effort to coerce foreign governments, including our allies who cooperate closely in the fight against drug trafficking, to institute their countries U.S. banking regulations is a counterproductive affront to their sovereignty. The most effective way to achieve a united international front against drug trafficking is to continue cooperation with foreign governments, not to institute confrontation.
- o Money Laundering. The Administration supports a combination of the money laundering provisions in the House and Senate versions, with the deletion of the amendment relating to sanctions on foreign banking (see above) and deletion of the Section 6113 exemption of attorneys fees. In particular, the Administration supports enactment of Sections 1004, 1007, and 1010 of the House version, which provide a more complete and effective procedure for law enforcement access to records covered by the Right to Financial Privacy Act.
- o Federal Debt Collection Procedures Act. These provisions, which are the substance of S. 1961, were developed by U.S. Attorneys to establish a uniform, effective set of judicial procedures for the collection of debts owed to the United States. The Administration strongly supports inclusion of this provision in the final bill.
- o Federal Law Enforcement Funding Authorizations. The Administration supports the authorization of funding at the levels contained in the Senate version for U.S. Attorneys, prisons, Marshals, and the Drug Enforcement Administration as more appropriate than those contained in the House version.
- o U.S. Marshals Service Act. Each House adopted a version of this charter for the Marshals Service.

- 4 -

The Administration strongly supports legislative authorization and specific authority for this important and effective law enforcement agency.

- o Rapid Alien Terrorist Removal Act. These provisions in the Senate version of the legislation permit the rapid deportation from the United States, and imposition of a bar on re-entry, of aliens convicted of aggravated felonies, such as drug trafficking or terrorist acts. The Administration strongly supports inclusion of this legislation in the final bill.
- o Innocent Owner Provisions. The Administration strongly prefers the Senate version of the innocent owner provisions, with needed technical corrections. The Senate version provides for an effective administrative mechanism to deal with innocent owner issues, while the House bill creates a judicial mechanism that could result in costly and time-consuming litigation.
- o Undetectable Firearms Act. These provisions, which are the substance of S. 2180, would require that all firearms be able to be detected by state-of-the-art magnetometers and X-ray machines. The provisions include a number of important pro-law enforcement firearms measures that would (1) broaden the reach of federal firearms laws governing trafficking in stolen firearms and those with obliterated serial numbers; (2) establish felony penalties for smuggling guns into Federal courtrooms and other facilities; and (3) provide mandatory minimum prison terms for use of a firearm in an assault on a Federal law enforcement officer. The Administration supports these provisions.
- o Civil Penalties. The Administration prefers the Senate version of the provision for civil penalties for certain drug abuse offenses, as the Senate version would address constitutional concerns by providing for appeal and the right to trial by jury.
- o Chemical Diversion and Trafficking Act. Both versions of the bill contain versions of this legislation. The Senate bill provides a more practical arrangement for monitoring the

- 5 -

importation and distribution of certain precursors and essential chemicals used in the manufacture of illegal drugs. Also, the House version would weaken certain provisions of existing law.

- o Minor and Technical Criminal Law Amendments. This comprehensive package of amendments makes a host of improvements in Federal criminal laws including (1) borrowing authority for Federal Prison Industries; (2) addition of drug conspiracies and attempts as predicates for mandatory minimum prison terms; (3) expanding money laundering offenses to include tax crimes; and (4) authorizing FBI investigation of police killings at the request of the employing law enforcement agency. The Administration strongly supports inclusion of this package in the final bill. We note that efforts are being made to strike the prison borrowing authority from the bill. The fears that drive such efforts are misplaced; the prison industries can only sell to the Federal Government. Given the critical nature of prison overcrowding, a lack of productive activity for prisoners will exacerbate an already frightening situation, endangering the safety of prison personnel.

The Administration strongly urges the Congress to present to the President a bill that increases our capability to combat illegal drugs effectively and responsibly. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,


Dick Thornburgh
Attorney General

IDENTICAL LETTER SENT TO:

Honorable Thomas Foley
Honorable Robert Dole
Honorable Robert C. Byrd
Honorable Warren Rudman
Honorable Sam Nunn

3